

KAMBERLAW, LLC
SCOTT A. KAMBER (pro hac vice)
skamber@kamberlaw.com.com
DAVID A. STAMPLEY (pro hac vice)
dstampley@kamberlaw.com
100 Wall Street, 23rd Flr.
New York, NY 10005
Telephone: 212.920.3072
Facsimile: 212.202.6364

Interim Class Counsel

(Additional Counsel listed on signature page)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

IN RE iPHONE APPLICATION LITIGATION

CASE NO. 11-MD-02250-LHK

**PLAINTIFFS' SECOND NOTICE OF
MOTION AND MOTION FOR CLASS
CERTIFICATION**

Hearing

Date: October 31, 2013

Time: 1:30 pm

Courtroom: 8 – 4th Floor

Judge – Hon. Lucy H. Koh

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on October 31, 2013, at 1:30 p.m., or soon thereafter, in the Courtroom of the Honorable Lucy H. Koh, 280 South First Street, San Jose, CA 95113, pursuant to Federal Rule of Civil Procedure 23(a) and 23(b), Plaintiffs will, and hereby do, move for an order certifying the following class:

All persons residing in the United States and its territories who, from June 1, 2010, through the date the Court certifies the Class, purchased or otherwise acquired iDevices running any of Apple's iOS versions prior to iOS7, excluding the Judges to whom these cases were assigned together with their respective staffs and all current or former Apple employees.

Plaintiffs also will, and hereby do, move for an order certifying the following subclass:

All persons residing in the United States and its territories who from January 1, 2008 through the date the Court certifies the Class, owned an iDevice and turned location services "off" and had their device collect, store, and/or transmit geolocation data, excluding the judges to whom these cases were assigned together with their respective staffs and all current or former Apple employees.

Plaintiffs finally will, and hereby do, move for an order certifying the following liability-only class:

All persons residing in the United States and its territories who, from January 1, 2008, through the date the Court certifies the Class, purchased or otherwise acquired iDevices running any of Apple's iOS versions prior to iOS7 who experienced shortened battery life or were charged for bandwidth usage, as a result of (i) Apple's unauthorized use of Location Services; or (ii) Apple's misrepresentations regarding unauthorized transmission, excluding the Judges to whom these cases were assigned together with their respective staffs and all current or former Apple employees.

Plaintiffs also will, and hereby do, move for an order appointing Plaintiffs Anthony Chiu, Cameron Dwyer, Isabella Capiro and Alejandro Capiro as Class Representations, and the appointment of KamberLaw, LLC as Lead Class Counsel.

This motion is based on the Notice of Motion, Supporting Memorandum, and the Declarations of Deborah Kravitz ("Kravitz Decl.") and Scott A. Kamber ("Kamber Decl.") and exhibits thereto, the Court's files in this action, the arguments of counsel, and any other matter the Court may properly consider.

STATEMENT OF ISSUES TO BE DECIDED (Local Rule 7-4(a)(3))

1. Whether Plaintiffs satisfy the requirements of Federal Rule of Civil Procedure 23(a).
2. Whether Plaintiffs satisfy the requirements of Federal Rule of Civil Procedure 23(b)(2) where they seek declaratory relief that Apple's actions violate the CLRA and the UCL and where they seek to enjoin Apple from (i) using and disclosing their personally identifiable information and location information contrary to representations made by Apple in its Software Licensing Agreement and Privacy Policy; (ii) failing to enforce its own internal policies regarding data privacy; and (iii) violating its representations regarding data security.
3. Whether Plaintiffs satisfy the requirements of Federal Rule of Civil Procedure 23(b)(3) for purposes of establishing liability-only as it relates to Apple's unauthorized transmissions of user data that shorten the battery life of the iDevice and/or consume an excessive amount of bandwidth.

Respectfully submitted,

DATED: August 19, 2013

KAMBERLAW, LLC

By: s/Scott A. Kamber
 SCOTT A. KAMBER (pro hac vice)
 DAVID A. STAMPLEY (pro hac vice)
 skamber@kamberlaw.com
 dstampley@kamberlaw.com
 KAMBERLAW, LLC
 100 Wall Street, 23rd Floor

New York, NY 10005
212.920.3072 Telephone
212.202.6364 Facsimile

DEBORAH KRAVITZ (SBN 275661)
dkravitz@kamberlaw.com
KAMBERLAW, LLC
141 North St.
Healdsburg, CA 95448
707.820.4247 Telephone
212.202.6364 Facsimile

Interim Class Counsel for Consolidated Plaintiffs

WILLIAM M. AUDET
JONAS P. MANN
waudet@audetlaw.com
jmann@audetlaw.com
AUDET & PARTNERS, LLP
221 Main Street, Suite 1460
San Francisco, CA 94105
415.568.2555 Telephone
415.568.2556 Facsimile
Liaison Counsel for Consolidated Plaintiffs

ROBERT K. SHELQUIST
KAREN H. RIEBEL
rshelquist@locklaw.com
khriebel@locklaw.com
LOCKRIDGE GRINDAL NAUEN P.L.L.P.
100 Washington Avenue S., Suite 2200
Minneapolis, MN 55401
612.339.6900 Telephone
612.339.0981 Facsimile

LEIGH SMITH
JOSHUA E. KELLER
lsmith@milberg.com
jkeller@milberg.com
MILBERG LLP
New York, NY 10119
212.594.5300 Telephone
212.868.1229 Facsimile

JEREMY WILSON
jeremy@wtfirm.com
WILSON TROSCLAIR & LOVINS
302 N. Market Street, Suite 501
Dallas, TX 75202
214.430.1930 Telephone
Executive Committee for Consolidated Plaintiffs

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